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CASES CITED

STATUTES CITED

IN THE

Supreme Court of the United States

OCTOBER TERM, 1948

FRED P. WEISSMAN, an Individual d/b/a FRED P. WEISSMAN COMPANY, FRED P. WEISSMAN COMPANY, a Corporation,

Petitioners,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

PETITION FOR WRIT OF CERTIORARI
To the United States Court of Appeals for the Sixth Circuit

To the Hon. Fred M. Vinson, Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

STATEMENT

The petitioners, Fred P. Weissman, an individual doing business as Fred P. Weissman Company, and Fred P. Weissman Company, a corporation, do hereby petition this Court for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit entered on the 29th day of November, 1948, pursuant to written opinion filed on said date. This opinion is reported in 170 Fed. (2d) page 952 January 17, 1949 Adv. Sheets, and its Docket number on the records of said Court of Appeals is 10,536.

1. Petitioner, Fred P. Weissman Company, is now a corporation engaged in the manufacture of women's coats at its plant near Harrodsburg, Mercer County, Kentucky.

Prior to December 1, 1945, this business was operated by Fred P. Weissman, an individual, doing business as Fred P. Weissman Company. All of the alleged unfair labor practices involved in these proceedings are asserted to have occurred before December 1, 1945.

2. Respondent, National Labor Relations Board, is an agency of the United States created by an Act of Congress July 5, 1935, c. 372, 74th Cong. 1st Session (29 USCA sec. 151, et. seq.) and as amended by an Act of Congress June 23, 1947, c. 120, 80th Cong. 1st Session (29 USCA--1948 CAPP, sec. 151, et. seq.)

3. Respondent, National Labor Relations Board, on August 28, 1947, filed its petition in the United States Circuit Court of Appeals for the Sixth Circuit, seeking enforcement of its order directing petitioners to cease and desist from discouraging membership in a labor organization, interfering with, restraining, or coercing employees in the exercise of the right to self organization and to take other steps as directed by said order which appears at page 2 of the Transcript of Record herein.

4. On November 29, 1948, said Court of Appeals entered a decree which recited that "it is now ordered, adjudged and decreed by this Court that the decree of the National Labor Relations Board be, and the same is, enforced."

On December 20, 1948, petitioners filed their petition for rehearing and on January 3, 1949, said petition was denied. On January 24, 1949, said Court of Appeals entered an order staying mandate in this action sixty days

from said date pending application of petitioners to the Supreme Court of the United States for Writ of Certiorari and further providing that, if said application is made within said time, the said stay shall operate until final disposition of this case in the Supreme Court.

REASONS FOR THE ALLOWANCE OF THE WRIT

The Court of Appeals for the Sixth Circuit has decided an important question, specified below, arising under federal law, to-wit: National Labor Relations Act, which has not been, but should be, clearly settled by the Supreme Court of the United States. The Court of Appeals has decided another important question of federal law, also specified below, in a way which is in conflict with applicable decisions of the Supreme Court of the United States.

1. The National Labor Relations Act neither protects nor justifies illegal and unlawful attempts of a Labor Union to drive an employer out of business under the guise of a bona fide effort to lawfully organize his employees and the Board in the instant case was without jurisdiction to entertain the Union's complaint.

2. The Court of Appeals erroneously construed the decisions of the Supreme Court in the cases of *National Labor Relations Board* v. *Donnelly Garment Company*, 330 U. S. 219, and *National Labor Relations Board* v. *I. & M. Elec. Co.*, 318 U. S. 9, so as to require that Court to affirm the findings of the Board in the instant case by a decree actually in conflict with the decisions of this Court in the Donnelly and Electric Company cases, supra.

It is submitted that the questions herein presented by your petitioners for Writ of Certiorari are of sufficient importance to be reviewed by this Court.

PRAYER FOR WRIT

WHEREFORE, your petitioners respectfully pray that a Writ of Certiorari issue directed to the United States Court of Appeals for the Sixth Circuit commanding said Court to certify and send to this Court a full and complete Transcript of the Record and of the proceedings of said Court of Appeals had in the above-styled action; that said action be reviewed and determined by this Court as provided by the statutes of the United States and that the decree of said Court of Appeals herein be reversed by this Court and for such further relief as the Court may deem proper.

Dated: Lexington, Kentucky. March 12, 1949.

FRED P. WEISSMAN, an individual doing business as Fred P. Weissman Company and Fred P. Weissman Company,

Petitioners,

By .....

Counsel for Petitioners.

STOLL, KEENON & PARK,
602 Bank of Commerce Bldg.,
Lexington, Kentucky,
Of Counsel.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1948

FRED P. WEISSMAN, an Individual d/b/a FRED P. WEISSMAN COMPANY, FRED P. WEISSMAN COMPANY, a Corporation,
Petitioners,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

We have already set out in the petition a statement of the grounds on which the jurisdiction of this Court is invoked and have specified the errors claimed by the petitioners.

STATEMENT

We shall now briefly recite in the order of errors assigned the particular facts of this case which we believe to be material to the consideration of the questions presented.

1. We think we can say that the evidence presented for petitioners showing that the Union's sole purpose was to

drive the employer out of business is practically undenied in the record. The oral testimony on this point may be found at the following page citations in the Transcript of Record: 301, 307-308, 310, 317-318, 356, 358, 394, 457-458. The uncontradicted printed evidence on this point in the form of handbills and pictorial posters widely circulated by the Union may be found at page 527, et. seq. of said Transcript.

According to the record, while petitioners had their plant in Cincinnati, the Union beat up women workers, threw rocks through the windows of cars operated by employees, invaded the home of Weissman and issued a warning that he leave town. At the plant's New York sales room, acid was thrown on samples and much damage inflicted; David Solomon, a high Union official, warned the plant employees that they had better give up their jobs and that before the Union got through with Weissman, he "would be selling peanuts on the East side of New York City." (R. 308). Many of the Union pickets were arrested and convicted in the Police Court of Cincinnati, but conditions became so intolerable that Weissman was forced to move his plant to Lawrenceburg, Indiana. At its new location, the plant was immediately besieged by the Union. Employees were threatened with personal violence and actually excluded by force from the premises. Here, Solomon reiterated that Weissman would not be permitted "to operate in Lawrenceburg, Cincinnati, or anywhere else." (R. 356).

In a short time, the illegal and wrongful acts of the Union were again successful and Weissman was driven out of Lawrenceburg, Indiana. Then he tried to establish his plant at Harrodsburg, Kentucky. The Union followed

him there. Once more its representatives profanely declared that they came for the purpose of putting Weissman "out of business." (R. 394, 457-458). Their attorney appeared upon the scene and announced that "Weissman's days are numbered in Harrodsburg." (R. 358).

While the citizens of that town and community were considering a plan to erect a building which could be occupied by the Weissman plant and thus afford jobs for unemployed inhabitants of Harrodsburg and Mercer County, the Union distributed printed handbills and posters falsely and libelously warning the citizens of Harrodsburg that Weissman would bring felons, gunmen and gangsters into their midst; that he would not pay his debts; that local workers would never be satisfied in Weissman's employ; that other communities had rejected him; that he was utterly unreliable and, therefore, from every aspect a positively undesirable character.

It is the contention of petitioners that the Union never made any bona fide effort to organize Weissman's plant, but that its sole purpose, as revealed by its actions referred to above, was to compel his complete retirement from the business in which he was then engaged.

2. In the cases of *National Labor Relations Board* v. *Donnelly Garment Company*, 330 U. S. 219, and *National Labor Relations Board* v. *I. & M. Elec. Co.*, 318 U. S. 9, the Court of Appeals erroneously held that the Supreme Court in reversing the Circuit Court of Appeals for the Eighth Circuit in the former case and the Circuit Court of Appeals for the Sixth Circuit in the latter case, sustained the practices of the Labor Union complained of in the case at bar. Thus the Court of Appeals decided, as we believe, an important question involving the National

Labor Relations Act in a way which conflicts with said decisions of this Court.

ARGUMENT

We shall, as concisely as possible, under this heading attempt to state our argument in support of our contentions with respect to errors assigned.

The oral testimony heretofore cited and the handbills which are set out in full in the record at the place specifically indicated, cannot possibly be reconciled with any effort or purpose on the part of the Union to *organize*—even by violence—petitioners' employees. We submit that no Union that ever had any desire whatsoever to form an organization of workers for Weissman would have driven him from one place to another, thereby destroying the jobs of the workers as each plant was forced to close. Certainly no sort of organizational campaign can be reconciled with the Union's deliberate and persistent efforts to discredit and smear the employer to such an extent that the business men and civic leaders at Harrodsburg would cancel the building project and wash their hands of Weissman, thus depriving workers of employment and the Union of members.

We have never heard of any Union being formed where there was no place to work and no employees to organize.

We submit that the "right of employees to organize and bargain collectively," the encouragement of "practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours or other working conditions" are intended to be, and are, in fact, so stated to be—the fundamental objects and purposes of

the National Labor Relations Act and that the Board has no jurisdiction over any phase of employer-employee relationship, except that which specifically relates to a "labor dispute."

We argued before the Trial Examiner, and before the Board, and before the Court of Appeals, and we contend now, that an undenied attempt to drive an employer out of business violates the basic spirit of the Act and strips such conduct on the part of the Union of any semblance of a "labor dispute." It is well settled, of course, that the existence of a "labor dispute" is positively necessary before the National Labor Relations Board can acquire jurisdiction over any employer-employee relationship. But, strange as it may seem, the vital question as to whether a Labor Union's effort to ruin an employer and drive him completely out of business by physical force, slander and libel involves a "labor dispute" has never been decided, so far as we are able to ascertain, by this Court. Indeed, we have not found where such question has been decided by any of the courts of inferior federal jurisdiction, unless—as we very much fear may be the case if this petition is denied—the opinion and decree of the Court of Appeals for the Sixth Circuit in the case at bar should hereafter be cited in support of a contention in the affirmative. And, at this point, our argument relating to the first assignment of error necessarily shades into the second one.

We believe that upon brief consideration, this Court will be convinced that the Court of Appeals in the instant case has construed the Donnelly case and the Electric Company case in a way which is definitely contrary to what these decisions actually hold.

In the Donnelly case, the respondent contended that the Union had been guilty of such misconduct as to "deprive the Board of its jurisdiction to conduct the inquiry," but it was not seriously contended that the controversy was not a "labor dispute," nor claimed that the Board had no jurisdiction over "labor disputes." On the other hand, the "International's" acts of violence admittedly occurred in connection with and as a part of the Union's attempt to organize Donnelly's employees. In our case, however, we desire to emphasize the fact that the misconduct of the Union—no claim being made by it that any of the activities complained of were engaged in for the purpose of organizing the employees—is utterly unassociated with a "labor dispute." There is not one scintilla of testimony in the whole record of this case that any of these undenied acts of violence were committed in an effort to organize Weissman's workers into a Union.

Therefore, we cannot believe that this Court in the Donnelly case intended to hold—as the Court of Appeals seems to assume—the acts of violence committed for the purpose of driving an employer out of business constituted a "labor dispute." Likewise, we cannot believe that this Court intended to hold in Donnelly that the National Labor Relations Board has any right to take jurisdiction in any case where the record shows—as the Court of Appeals expressly found in our case—that "there is considerable evidence which would have justified the Board in refusing to entertain and proceed upon the charges filed against the respondents because of bad faith and unlawful motives on the part of the Union." ("Proceedings" 88).

What has been said with respect to the Donnelly case applies with equal force to that part of the Electric Company case which deals with the common issue now under consideration. In Donnelly the Court pointed out with reference to the Electric Company case that while "the circumstances of the two cases" were different, "they have in common an accusation of grave misconduct against a complainant before the Court." It is evident that this Court regarded these two cases as having another common factor, that the violence, however illegal and wrongful—was connected with a "labor dispute" and was, therefore, entitled to consideration under the special rules, regulations and decisions applicable to "labor disputes," which nowhere exists in any form whatsoever in the present case.

CONCLUSION

In conclusion, we earnestly insist that the vital question as to whether a Union can by sabotage and intimidation, by force and violence drive an employer out of business under cover of the National Labor Relations Act—though the mere statement of this proposition ought to answer it —is still as a matter of law an open one which should be settled now—once and for all—by this Court. We say, further, that the Court of Appeals in the instant case has decided adversely—and as we believe reluctantly—to the petitioners only because it has misconstrued the opinions of this Court in the Donnelly and Electric Company cases and, in doing so, has decided a question arising under federal law in a way that is in conflict with the decisions of this Court.

For the foregoing reasons, we urge upon this Court that the Writ of Certiorari prayed for in the petition

herein be granted and that upon consideration of this case the decree of the United States Court of Appeals be reversed.

Respectfully submitted,

FRED P. WEISSMAN, an individual doing business as Fred P. Weissman Company and Fred P. Weissman Company,
Petitioners,

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AUTHORITIES CITED

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In the Supreme Court of the United States

OCTOBER TERM, 1948

No. 677

FRED P. WEISSMAN, AN INDIVIDUAL d/b/a FRED P. WEISSMAN COMPANY AND FRED P. WEISSMAN COMPANY, A CORPORATION, PETITIONERS

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

OPINION BELOW

The opinion of the court below (R. 530-535) is reported in 170 F. 2d 952. The findings of fact, conclusions of law, and order of the National Labor Relations Board (R. 40-78, 88-97) are reported in 69 N. L. R. B. 1002.

JURISDICTION

The decree of the court below was entered on November 29, 1948 (R. 529). The Company's peti-

tion for rehearing was denied on January 3, 1949 (R. 539). The jurisdiction of this Court was invoked under Section 1254 of 28 U. S. C., and Section 10 (e) of the National Labor Relations Act, as amended.

QUESTIONS PRESENTED

1. Whether there is substantial evidence to support the Board's finding that the Union's efforts to organize petitioners' employees were peaceful and bona fide.

2. If the above question is answered in the negative, whether the misconduct of the Union deprived the Board of jurisdiction to remedy petitioners' unfair labor practices.

STATUTES INVOLVED

The pertinent provisions of the National Labor Relations Act (49 Stat. 449, 29 U. S. C. 151, *et seq.*), and of the Labor Management Relations Act of 1947 (61 Stat. 136, 29 U. S. C., Supp. I, 141, *et seq.*) are set forth in the Appendix, *infra*, pp. 11-12.

STATEMENT

Upon the usual proceedings under Section 10 of the National Labor Relations Act, the Board, on July 31, 1946, issued its findings of fact, conclusions of law, and order (R. 88-97). The pertinent facts, as found by the Board, may be summarized as follows:

Fred P. Weissman was formerly engaged in New York City in the manufacture of women's

coats (R. 45; 288, 352-353).[1] While there engaged, he was bound by the terms of a collective bargaining agreement with the International Ladies' Garment Workers Union, AFL, herein called the Union (*ibid.*). In May or June of 1940, Weissman moved to Cincinnati and there resumed manufacturing operations as Fred P. Weissman, d/b/a Fred P. Weissman Company,[2] herein called the Company (R. 45; 290-291). Shortly thereafter, a dispute developed between the Company and the Union as to whether Weissman had fully discharged his obligation to the Union pursuant to his contract before leaving New York (R. 45-46; 479-480). The Union sought to persuade the Company to return to New York (R. 47-48; 288-290, 356). The Union also asked the Company to hire workers referred to it by the Cincinnati local of the Union (R. 46; 478-479). When the Company refused to accede to the Union's requests, the Union picketed the Company's plant (R. 46; 479, 481-482). The Company thereupon abandoned its Cincinnati operations, and in August 1940 opened a plant in Lawrenceburg, Indiana (R. 46; 317). The Union then picketed the Lawrenceburg plant (R. 46;

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[1] References before the semicolon are to the Board's findings as set forth in the Board's decision; references after the semicolon are to the supporting evidence.

[2] Fred P. Weissman operated the business as Fred P. Weissman Company until December 1, 1945, when the Fred P. Weissman Company, a corporation, organized by Fred P. Weissman, took over the business (R. 42-43; 101, 114). The Board found that all of the unfair labor practices herein occurred before December 1, 1945 (R. 71), and, accordingly, reference will be made exclusively to the Company.

317-318), and the Company moved its business to Harrodsburg, Kentucky, where it began operations in June 1941 (R. 47; 109, 167-168, 175-178, 281-282).

In March 1945 the Union began a drive to organize the employees of the Harrodsburg plant (R. 49; 132-134, 154-155). This drive was marked by a heated campaign between the Union and anti-Union employees in which Weissman and his General Manager, Drimmer, interrogated employees concerning their union affiliations and activities (R. 49, 50; 127, 135-136, 267), and Company supervisors discouraged membership in the Union (R. 55-56; 178-179, 200, 451), and warned employees not to join any union if they wished to continue working at the plant (R. 55; 488).

On September 19, 1945, a large number of anti-Union employees assembled at the door of the plant, and by threats and force excluded employees Teater, Drury, and Springate, members of the Union, from the plant (R. 59, 88-89; 139-142, 179-182, 203-205, 221-222, 260-261, 396-397, 401, 418, 425-426, 437-438). General Manager Drimmer was present during this occurrence (R. 60-61; 185, 206, 222), and approved the conduct of the anti-Union group (R. 60-62; 252, 254-256). Supervisors Ransdell, King, Watts, and Hellard were also present, Hellard taking part in the scuffle with Teater, one of the excluded employees (R. 60; 185-186, 204-205, 223-224, 386-387, 395, 456-457, 461-462, 463-464, Tr. 827). Employee Floyd Shirley, after witness-

ing the melee, took Teater, who was injured, to a doctor (R. 59, 89; 142, 262). The following day, when Shirley was checking out at noon for lunch, he was told, in the presence of Supervisor Watts, by employee Weldon, spokesman for a group of assembled employees, that his services were no longer needed, and he was ordered not to return to the plant (R. 64; 264). Shirley did not attempt to enter the plant on his return because he knew the door was being held, and he wished to avoid trouble and the use of force (R. 90-91; 273-275).

On the morning of October 29, employee Sallee, a member of the Union, while at work was accused of engaging in union activities by a group of employees. When Sallee left the plant for lunch, the same group warned her not to return that afternoon "because the doors will be locked" (R. 65-66; 231-232). Sallee immediately advised General Manager Drimmer about her threatened exclusion, and was instructed by him to return to work after lunch, at which time he promised to meet her at the plant (*ibid.*). Sallee, after returning to the plant as instructed, found the door locked, and was again informed by the employees that she could not work at the plant because she was "for the Union" (R. 66; 232, 420, 428). When Drimmer arrived, Sallee explained to him that she was being denied the right to enter the plant (R. 66; 232). Drimmer advised Sallee there was nothing he could do for her and that she should go home (*ibid.*).

The excluded employees subsequently received termination notices stating that they had "voluntarily" quit their employment with the Company (R. 64; 120-124, 147-148, 190, 209, 235, 266, 505-508). Each of them replied to the Company by letter, denying having voluntarily quit their employment and explaining that each of them had been prevented from entering the plant. The replies stated further that they were ready, able, and willing to continue their employment. Weissman did not answer them, and these employees were never reinstated. (R. 65, 68; 347.)

Upon the basis of the foregoing facts, the Board found (R. 52, 56) that the conduct of the Company's officials and supervisors, ranging from the questioning of employees as to their union activities to outright threats of discharge because of their union affiliations and their failure to sign a petition renouncing the Union, constituted interference and coercion in derogation of the employees' statutory right to full freedom of organization, in violation of Section 8 (1) of the Act. The Board further found (R. 68-70, 91) that the Company, in violation of Section 8 (3) and (1) of the Act, discriminated against the excluded employees by acquiescing and participating in their exclusion from the plant and by refusing to remedy the discrimination by denying them reinstatement despite their request therefor, because of their activity and membership in the Union.

The Board rejected the Company's contention that the Union's efforts to organize its employees were not bona fide but merely part of an unlawful scheme to drive the Company out of business (R. 47-49; 288-290). It considered the evidence adduced by the Company to show violence and fraud on the part of the Union, but found it insufficient to establish such conduct (R. 48; 301, 307-308, 310, 317-318, 356, 358). The Board also pointed out that the evidence of such conduct related only to the years 1940 and 1941 at Cincinnati and Lawrenceburg and had no direct relationship to the organizing campaign in Harrodsburg in 1945 (R. 48-49). Accordingly, the Board determined that this evidence was insufficient to cause the Board to decline consideration of the case (R. 47-49).

The Board ordered the Company: to cease and desist from such unfair labor practices; to instruct their employees that they will not permit any employees to exclude other employees from the plant or to permit or threaten violence for such purposes; to offer reinstatement with back pay to the five employees discriminated against; and to post appropriate notices (R. 92-97).

On August 28, 1947, the Board filed a petition for enforcement of its order in the court below (R. 1-6), and on November 29, 1948, the court handed down its opinion sustaining the Board's order in full, and entered its decree of enforcement (R. 529-535).

ARGUMENT

1. The petition for certiorari is based on the assumption that the Union was using the Board's processes as part of an effort by the Union to drive the Company out of business by the use of fraud and violence (Pet. 3, 5-6, 8, 10). The Board permitted the Company to adduce whatever evidence it wished in support of its contention (R. 291-323, 352-363). The evidence adduced was all the most remote hearsay and related only to events occurring in Cincinnati and Lawrenceburg in 1940 and 1941 (*ibid.*), while the case before the Board related to events occurring in Harrodsburg in 1945. The Board accordingly rejected the Company's contention as lacking in evidential support.

The Board found that "on this record * * * the Union did not engage in fraud and violence" (R. 48); that the Union's objective in attempting to organize the Company's Harrodsburg plant was the normal one of establishing bargaining relations (R. 49, n. 12; 485); and that the Union's organizing activities were not in any manner at variance with the usual, lawful activities of labor organizations (R. 48-49). The court below in ruling upon this aspect of the case stated (R. 534):

> The Board considered the evidence in the aggregate, i.e., that relating to the enforcement of its order, as well as respondents' contention that the action of the Union was unlawful, and arrived at a well sustained inference contrary to respondents' claim. We are not authorized to nullify its decision. *Labor Board* v. *Link-*

Belt Co., 311 U. S. 584; *Nat. Labor Relations Board* v. *Nevada Consol. Copper Corp.*, 316 U. S. 105.

The petition thus presents solely a question of evidence. No issue justifying review by this Court is raised.

2. The cases of *National Labor Relations Board* v. *Donnelly Garment Co.*, 330 U. S. 219, and *National Labor Relations Board* v. *Indiana & Michigan Electric Co.*, 318 U. S. 9, upon which the Company relies (Pet. 7), hold only that the Board must receive and consider evidence of unlawful conduct by the charging union in determining whether to lend its administrative processes to remedy unfair labor practices. Here the Board did receive and consider such evidence (R. 47-49; 291-323, 352-363). As the court below pointed out, the *Donnelly* and *Indiana & Michigan* cases establish that once the Board has received and considered such evidence, the decision as to whether to entertain and proceed upon the charges rests "within the discretion of the Board" (R. 534).

CONCLUSION

The decision below, sustaining the Board's findings and order, is correct. No conflict of decisions is presented. The petition for a writ of certiorari should be denied.

Respectfully submitted,

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Attorney, National Labor Relations Board.

APRIL 1949.

APPENDIX

1. The relevant provisions of the National Labor Relations Act (Act of July 5, 1935, 49 Stat. 449, 29 U. S. C. 151, *et seq.*) are as follows:

* * * * *

RIGHTS OF EMPLOYEES

Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

Sec. 8. It shall be an unfair labor practice for an employer—

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

* * * * *

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: * * *

* * * * *

PREVENTION OF UNFAIR LABOR PRACTICES

Sec. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. * * *

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Supp. I, 141, *et seq.*) are as follows:

* * * * *

SEC. 10. * * *

* * * * *

(e) The Board shall have power to petition any circuit court of appeals of the United States * * * within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order * * * and shall certify and file in the court a transcript of the entire record in the proceedings, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power * * * to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. * * * The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. * * *

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